THE HONOURABLE SRI JUSTICE R. SUBHASH REDDY

WRIT PETITION No. 13551 OF 2005

ORDER:

As much as Counter affidavit is filed on behalf of the respondents, with the consent of both the parties, the Writ Petition is taken up for disposal at the admission stage.

This Writ Petition is filed, questioning opening of rowdy sheet against the petitioner in H.S.No.12, on 1-1-2004 and continuing the same, on the file of the Station House Officer, Uppal Police Station, Ranga Reddy District, in exercise of powers conferred under the A.P. Police Standing Order-742.

In the affidavit filed in support of the Writ Petition, it is stated, that the petitioner is the permanent resident of Somasunder Nagar of Bagh Amberpet, Hyderabad and is having land disputes, with regard to the land in Sy.Nos. 2,3,37,38,39,40 and 41 of Navarang Guda village in Uppal Kalan, Ranga Reddy District, with his cousins. It is stated, that there are also civil suits pending between them. It is the case of the petitioner, that at the instance of his cousins, several cases are registered against him, and most of the cases ended in acquittal. It is the further case of the petitioner, that even those cases, which were registered against him, are in connection with the allegation of trespass into the disputed lands, and, he is not involved in any other offences involving breach of peace. Precisely, it is the case of the petitioner, that he is not a habitual offender involving offence of breach of peace, within the meaning of AP Police Standing Order-742; as such, there is no valid basis for opening the rowdy sheet against him, and, to continue the same.

Counter affidavit is filed on behalf of the respondents. It is stated in the counter affidavit, that the petitioner is the permanent resident of Somasunder Nagar of Bagh Amberpet, Hyderabad and involved in number of criminal cases. Crime numbers and its particulars are mentioned in the counter affidavit, which are extracted below:

"1. Cr.No.165/91, U/Sec. 324, r/w.34 IPC Amberpet PS,

(Acquitted)

2. Cr.No.15/94, U/Sec.324,427, r/w.Sec.25 of Arms Act,

Amberpet PS. (Acquitted).

3. Cr.No.12/95, U/Sec.147, 148, 302 IPC Yacharam PS

(Acquitted)

4. Cr.No.12/97,U/Sec.25(a) IA Act and (b) Explosives Act,

Ameberpet P.S.(Acquitted)

5. Cr.No.153/2000, U/Sec. 447,506 IPC, Uppal Police

Station, (Acquitted)

6. Cr.No.154/2001, U/Secs.447,506 IPC, Uppal PS (Pending

trial vide CC.No.1310/2001).

7. Cr.No.168/03, U/Sec. 307, 342 IPC Uppal PS

(Acquitted)."

While referring to the above said cases, it is stated, that the petitioner is also involved in land litigations; as such, his activities and movements should be watched to curb his criminal activities. It is stated, pursuant to the permission accorded by the concerned officer, i.e. Assistant Commissioner of Police, Malkajgiri, Cyberbad, rowdy sheet is opened against the petitioner on 1-1-2004 and is renewed further up to 31-12-2005. In the counter affidavit, it is further stated, that at present, only one case is pending trial against the petitioner. Pleading no procedural illegality in opening rowdy sheet, sought for dismissal of the Writ Petition.

Heard the learned Counsels for the parties.

It is submitted by Sri T.Bal Reddy, the learned Senior Counsel appearing for the petitioner, that rowdy sheet can be opened by the respondents as per the AP Police Standing Orders, only, against the persons, who are habitual offenders, who

habitually commit offences involving breach of peace. But, however, in this case, no cases were registered against the petitioner after the case in crime No.168/2003, and, in spite of the same, rowdy sheet is opened on 1-1-2004. It is further submitted, that even almost all the cases, which were registered earlier, were ended in acquittal; as such, it is the submission of the learned Counsel, that there is no valid basis for opening the rowdy sheet on 1-1-2004 and renewing the same up to 31-12-2005.

On the other hand, it is submitted by the learned Government Pleader appearing for the respondents, that having regard to number of cases registered against the petitioner, his case falls within Clause (a) of Police Standing Order.742; as such, rowdy sheet was opened against the petitioner and the same is in conformity with the Police Standing Orders, referred above. But, however, it is submitted by the learned Government Pleader, that subsequent to registration of case in the year 2003 in Crime No. 168 of 2003, in which, the petitioner was acquitted from the charges levelled against him, there is only one case pending trial in crime No.154 of 2001.

As per Andhra Pradesh Police Standing Order-742, against the persons, who habitually commit offences involving breach of peace, rowdy sheet can be opened. The word '*habitually*' is interpreted by this Court and Apex Court in several cases. In all the cases, the word 'habitually' is interpreted to the effect that as it is repeatedly or persistently, and, also it implies, thread of continuity stringing together, similar repetitive acts. Merely because number of cases were registered several years back, is no ground either for opening the rowdy sheet or continue the same, without any valid basis. Though it is stated in the counter affidavit, that the petitioner is involved in number of cases, but, it is to be seen, cases were registered during the years, 1991, 1994, 1995, 1997 etc.. Even with reference to the cases registered in Crime No.153 of 2000 and Cr.No.168 of 2003, the petitioner is already acquitted from the charges levelled against him. Only in the case in Crime No. 154 of 2001, trial is pending. In the counter affidavit, it is also categorically admitted, that there is only one such case pending against the petitioner, and, no further cases are registered against him. As on the date of opening the rowdy sheet against the petitioner, i.e. on 1-1-2004, even according to the particulars given in the counter affidavit, only one

case was pending trial, which also was registered in the year 2001. The petitioner has not involved in any cases after 2003, for his repeated acts involving breach of peace. No valid reasons are stated for opening the rowdy sheet on 1-1-2004, to show, that he is a habitual offender in committing offences involving breach of peace. Though acquittal in the earlier cases will have little bearing on the issue, it is also to be noted, that in all the cases, which were registered against him, the petitioner was acquitted. It is also the case of the petitioner, that the cases which were registered against him were only at the instance of his cousins, who are having disputes with regard to landed properties, on which, several civil cases are also pending consideration. It is also to be noted, that once rowdy sheet is opened, it cannot be continued mechanically. Though it is stated, that the rowdy sheet opened against the petitioner is renewed upto 31-12-2005, but, there are no valid reasons recorded, for such renewal. To maintain law and order, the respondents may have their watch and surveillance on the movements of the petitioner, but, however, there is no valid basis either for opening the rowdy sheet on 1-1-2004 or to renew the same further up to 31-12-2005.

For the foregoing reasons, the rowdy sheet opened against the petitioner is fit to be quashed. Accordingly, the rowdy sheet opened against the petitioner vide HS.No.12, dated 1-1-2004 and renewed further, is hereby quashed. However, it is open for the respondents to keep surveillance on the activities and movements of the petitioner.

The Writ Petition is accordingly allowed. No order as to costs.

JUSTICE R. SUBHASH REDDY

DATED: -09-2005.

Msnr.